



Chapter 20. The Hazardous Waste Permit Program

Article 1. General Information

§66270.1. Purpose and Scope of These Regulations.

(a) Coverage.

(1) These permit regulations establish provisions for the issuance and administration of hazardous waste permits pursuant to chapter 6.5 of division 20 of the Health and Safety Code (commencing with section 25100).

(2) The regulations in this chapter cover basic permitting requirements, such as application requirements, standard permit conditions, and monitoring and reporting requirements. These regulations are part of a regulatory scheme implementing chapter 6.5 (commencing with section 25100) of division 20 of the Health and Safety Code, set forth in different parts of Title 22, California Code of Regulations.

(3) Technical regulations. The permit program has separate additional regulations that contain technical requirements. These separate regulations are used by the Department to determine what requirements shall be placed in permits if they are issued. These separate regulations are located in chapters 14 and 16 of this division.

(b) Overview of the Permit Program. Not later than 90 days after the promulgation or revision of regulations in chapter 11 of this division, which result in a waste becoming subject to the requirements of this division, generators and transporters of that hazardous waste, and owners or operators of hazardous waste facilities that transfer, treat, store, or dispose of that waste shall file a notification of that activity under Health and Safety Code section 25153.6. After the promulgation of the chapter 11 regulations, transfer, treatment, storage or disposal of the newly regulated hazardous waste by any person who has not filed a notification with the Department and received a permit or grant of interim status is prohibited unless otherwise specifically authorized by the Department or another provision of this division. A permit application consists of two parts, Part A (see section 66270.13) and Part B (see section 66270.14 and applicable sections in sections 66270.15 through 66270.23). For "existing HWM facilities," the requirement to submit an application is satisfied by submitting only Part A of the permit application until the date the Department sets for submitting Part B of the application. (Part A consists of Forms 1 and 3 of the Consolidated Permit Application Forms.) Timely submission of both notification under Health and Safety Code section 25153.6 and Part A qualifies owners and operators of existing HWM facilities (who are required to have a permit) for interim status under section 25200.5 of the Health and Safety Code. Facility owners and operators with interim status are treated as having been issued a permit until the Department makes a final determination on the permit application. Facility owners and operators with interim status shall comply with interim status standards set forth in chapter 15 of this division. For existing HWM facilities, the Department shall set a date, giving at least 60 days notice, for submission of Part B of the application.

There is no form for Part B of the application; rather, Part B shall be submitted in narrative form and contain the information set forth in the applicable sections of sections 66270.14 through 66270.23. Owners or operators of new HWM facilities shall submit Parts A and B of the permit application at least 180 days before physical construction is expected to commence.

(c) Scope of the Permit Requirements. A permit is required for the "transfer," "treatment," "storage," and "disposal" of any waste which is hazardous waste pursuant to section 66261.3. The terms "transfer," "treatment," "storage," "disposal," and "hazardous waste" are defined in section 66260.10. Owners and operators of hazardous waste management units shall have permits during the active life (including the closure period) of the unit. Owners or operators of surface impoundments, landfills, land treatment units, and waste pile units that received wastes after July 26, 1982, or that certified closure (according to section 66265.115) after January 26, 1983, shall have post-closure permits, unless they demonstrate closure by removal as provided under subsections (c)(5) and (6) of this section. If a post-closure permit is required, the permit shall address applicable chapter 14 Water Quality Monitoring, Environmental Monitoring, Corrective Action, and Post-closure Care Requirements of this division. The denial of a permit for the active life of a hazardous waste management facility or unit does not affect the requirement to obtain a post-closure permit under this section.

(1) Specific inclusions. Owners and operators of certain facilities require hazardous waste facility permits as well as permits under other programs for certain aspects of the facility operation. Permits are required for:

(A) injection wells that dispose of hazardous waste, and associated surface facilities that transfer, treat, store or dispose of hazardous waste;

(B) transfer, treatment, storage, or disposal of hazardous waste at facilities requiring an NPDES permit. However, the owner or operator of a publicly owned treatment works receiving hazardous waste shall be deemed to have a permit for treatment of that waste if the owner or operator complies with the requirements of section 66270.60(d)(1).

(C) barges or vessels that dispose of hazardous waste by ocean disposal. However, the owner or operator of the barge or vessel shall be deemed to have a permit for ocean disposal from the barge or vessel if the owner or operator complies with the requirements of section 66270.60(d)(2).

(D) treatment of hazardous wastes using a Transportable Treatment Unit (TTU). However, the owner or operator of a transportable treatment unit (TTU) shall be deemed to have a permit to operate the TTU when the owner or operator submits completed TTU notifications as specified in Section 67450.2(a) and 67450.3(a)(3) and receives acknowledgements from the Department authorizing operation of the TTU pursuant to sections 67450.2(a)(3) and 67450.3(b).

(E) treatment of hazardous wastes using a Fixed Treatment Unit (FTU). However, the owner or operator of a fixed treatment unit (FTU) shall be deemed to have a permit to operate the FTU when the owner or operator

submits a completed FTU facility-specific notification as specified in Section 67450.2(b) and receives an acknowledgement from CUPA or authorized agency authorizing operation of the FTU pursuant to section 67450.2(b)(5).

(F) operation of a temporary household hazardous waste collection facility (THHWCF). However, the operator of a THHWCF shall be deemed to have a permit to operate the THHWCF when the operator submits a completed THHWCF notification as specified in Section 66270.60(d)(5)(A).

(2) Specific exclusions. The following persons are among those who are not required to obtain a permit:

(A) generators who accumulate hazardous waste on site without meeting the definition of a storage facility set forth in Health and Safety Code Section 25123.3;

(B) farmers who dispose of hazardous waste pesticides from their own use as provided in section 66262.70;

(C) transporters storing manifested shipments of hazardous waste in containers at a transfer facility, and transfer facilities storing manifested shipments of hazardous waste in containers, for six days or less, or 10 days or less for transfer facilities in areas zoned industrial by the local planning authority, and meeting the requirements of sections 66262.30 and 66263.18;

(D) persons adding absorbent material to waste in a container (as defined in section 66260.10 of this division) and persons adding waste to absorbent material in a container, provided that these actions occur at the time waste is first placed in the container; and sections 66264.17(b), 66264.171, and 66264.172 of this division are complied with.

(E) Persons who manage universal waste. These persons are subject to regulation under chapter 23 when managing universal wastes listed in section 66261.9 of this division.

(3) Further exclusions.

(A) A person is not required to obtain a permit for treatment or containment activities which are necessary to perform an immediate response to any of the following situations:

1. a discharge of a hazardous waste;
2. an imminent and substantial threat of a discharge of hazardous waste;
3. a discharge of a material which, when discharged, becomes a hazardous waste.

(B) Any person who continues or initiates hazardous waste treatment or containment activities after the immediate response is over is subject to all applicable requirements of this chapter for those activities.

(4) Permits for less than an entire facility. The Department may issue or deny a permit for one or more units at a facility without simultaneously issuing or denying a permit to all of the units at the facility. The interim status of any unit for which a permit has not been issued or denied is not affected by the issuance or denial of a permit to any other unit at the facility.

(5) Closure by removal. Owners/operators of surface impoundments, land treatment units, and waste piles closing by removal or decontamination under the standards of chapter 15 of this division shall obtain a post-closure permit unless they can demonstrate to the Department that the closure met the standards for closure-by-removal or decontamination in sections 66264.228, 66264.280(e), or 66264.258, respectively. The demonstration may be made in the following ways:

(A) if the owner/operator has submitted a Part B application for a post-closure permit, the owner/operator may request a determination, based on information contained in the application, that the closure-by-removal or decontamination standards of chapter 14 of this division were met. If the Department believes that the chapter 14 standards were met, the Department will notify the public of this proposed decision, allow for public comment, and reach a final determination according to the procedures in paragraph (c)(6) of this section.

(B) If the owner/operator has not submitted a Part B application for a post-closure permit, the owner/operator may petition the Department for a determination that a post-closure permit is not required because the closure met the applicable closure-by-removal or decontamination standards of chapter 14 of this division.

1. The petition shall include data demonstrating that the applicable chapter 14 closure-by-removal or decontamination standards were met.

2. The Department shall approve or deny the petition according to the procedures outlined in subsection (c)(6) of this section.

(6) Procedures for closure equivalency determination.

(A) If a facility owner/operator seeks an equivalency demonstration under section 66270.1(c)(5), the Department shall provide the public, through a newspaper notice, the opportunity to submit written comments on the information submitted by the owner/operator within 30 days from the date of the notice. The Department shall also, in response to a request or at the Department's own discretion, hold a public hearing whenever such a hearing might clarify one or more issues concerning the equivalence of the closure under chapter 15 of this division to a closure-by-removal or decontamination under chapter 14 of this division. The Department shall give public notice of the hearing at least 30 days before it occurs. Public notice of the hearing may be given at the same time as notice of the opportunity for the public to submit written comments, and the two notices may be combined.

(B) The Department shall determine whether the closure under chapter 15 of this division met the closure-by-removal or decontamination requirements of chapter 14 of this division within 90 days of receipt of a petition requesting a closure equivalency determination. If the Department finds that the closure did not meet the applicable chapter 14 standards, the Department shall provide the owner/operator with a written statement of the reasons why the closure failed to meet chapter 14 standards. The owner/operator may submit additional information in support of an equivalency demonstration within 30 days after receiving such written statement. The Department shall review any additional information submitted and make a final determination within 60 days.

(C) If the Department determines that the facility did not close in accordance with the closure-by-removal or

decontamination standards of chapter 14 of this division, the facility is subject to post-closure permitting requirements.

(d) Where waste discharge requirements are established pursuant to sections 13260 and 13263 of the Water Code, they shall be incorporated as a condition of the Hazardous Waste Facility Permit issued to the applicant pursuant to this chapter to the extent the Department determines the waste discharge requirements are not less stringent than this division or chapter 6.5 of division 20 of the Health and Safety Code. The Department may establish in the permit more stringent requirements which the Department determines are necessary or appropriate to carry out this division of chapter 6.5 of division 20 of the Health and Safety Code.

NOTE: Authority cited: Sections 25141, 25150, 25150.6, 25159, 25219.1 and 58012, Health and Safety Code.
Reference: Sections 25118, 25141, 25159, 25159.5, 25219, 25219.1 and 25219.2, Health and Safety Code; 40 CFR Section 270.1.

HISTORY

1. New section filed 5-24-91; operative 7-1-91 (Register 91, No. 22).
2. Amendment filed 10-23-91; operative 1-1-92 (Register 92, No. 12).
3. New subsection (c)(1)(F) and amendment of subsections (c)(1)(B)-(C) and Note filed 4-12-93; operative 4-12-93 (Register 93, No. 16).
4. Change without regulatory effect amending subsection (c)(2)(C) filed 4-3-96 pursuant to section 100, title 1, California Code of Regulations (Register 96, No. 14).
5. Amendment of subsections (c)(1)(D)-(F) filed 1-8-99 as an emergency; operative 1-8-99 (Register 99, No. 2). A Certificate of Compliance must be transmitted to OAL by 5-10-99 or emergency language will be repealed by operation of law on the following day.
6. Amendment of subsections (c)(1)(D)-(F) refiled 5-7-99 as an emergency; operative 5-7-99 (Register 99, No. 19). A Certificate of Compliance must be transmitted to OAL by 9-7-99 or emergency language will be repealed by operation of law on the following day.
7. Amendment of subsections (c)(1)(D)-(F) refiled 9-3-99 as an emergency; operative 9-3-99 (Register 99, No. 36). A Certificate of Compliance must be transmitted to OAL by 1-3-2000 or emergency language will be repealed by operation of law on the following day.
8. Amendment of subsections (c)(1)(D)-(F) refiled 12-29-99 as an emergency; operative 1-3-2000 (Register 99, No. 53). A Certificate of Compliance must be transmitted to OAL by 5-2-2000 or emergency language will be repealed by operation of law on the following day.
9. New subsections (c)(2)(E)-(c)(2)(E)3. and amendment of Note filed 3-6-2000 as an emergency; operative 3-6-2000 (Register 2000, No. 10). A Certificate of Compliance must be transmitted to OAL by 7-5-2000 or emergency language will be repealed by operation of law on the following day.
10. Certificate of Compliance as to 12-29-99 order transmitted to OAL 2-29-2000 and filed 4-11-2000 (Register 2000, No. 15).
11. New subsections (c)(2)(E)-(c)(2)(E)3. and amendment of Note refiled 6-29-2000 as an emergency; operative 7-6-2000 (Register 2000, No. 26). A Certificate of Compliance must be transmitted to OAL by 11-3-2000 or emergency language will be repealed by operation of law on the following day.
12. New subsections (c)(2)(E)-(c)(2)(E)3. and amendment of Note refiled 11-1-2000 as an emergency; operative 11-4-2000 (Register 2000, No. 44). A Certificate of Compliance must be transmitted to OAL by 3-5-2001 or emergency language will be repealed by operation of law on the following day.
13. New subsections (c)(2)(E)-(c)(2)(E)3. and amendment of Note refiled 3-6-2001 as an emergency; operative 3-6-2001 (Register 2001, No. 10). A Certificate of Compliance must be transmitted to OAL by 7-5-2001 or emergency language will be repealed by operation of law on the following day.
14. New subsections (c)(2)(E)-(c)(2)(E)3. and amendment of Note refiled 6-26-2001 as an emergency; operative 7-5-2001 (Register 2001, No. 26). A Certificate of Compliance must be transmitted to OAL by 11-2-2001 or emergency language will be repealed by operation of law on the following day.
15. New subsections (c)(2)(E)-(c)(2)(E)3. and amendment of Note refiled 11-2-2001 as an emergency; operative 11-3-2001 (Register 2001, No. 44). A Certificate of Compliance must be transmitted to OAL by 3-4-2002 or emergency language will be repealed by operation of law on the following day.
16. Certificate of Compliance as to 11-2-2001 order, including further amendment of Note, transmitted to OAL 12-27-2001 and filed 2-8-2002 (Register 2002, No. 6).
17. Amendment of subsection (c)(2)(E) and repealer of subsections (c)(2)(E)1.—3. filed 2—3—2003 (Register 2003, No. 6).
18. Amendment of NOTE filed 2—13—2003; operative 3—15—2003 (Register 2003, No. 7).
19. Change without regulatory effect amending subsections (c)(1)(D)—(E) filed 6—7—2004 pursuant to section 100, title 1, California Code of Regulations (Register 2004, No. 24).

§66270.3. Considerations Under Federal Law.

The following is a list of Federal laws that may apply to the issuance of permits under these rules. When any of these laws is applicable, its procedures shall be followed. When the applicable law requires consideration or adoption of particular permit conditions or requires the denial of a permit, those requirements also shall be followed.

(a) The Wild and Scenic Rivers Act. 16 U.S.C. section 1273 et seq.) section 7 of the Act prohibits the USEPA Regional Administrator and the Department from assisting by permit or otherwise the construction of any water resources project that would have a direct, adverse effect on the values for which a national wild and scenic

river was established.

(b) The National Historic Preservation Act of 1966. (16 U.S.C. section 470 et seq.) section 106 of the Act and implementing regulations (36 CFR Part 800) require the USEPA Regional Administrator and the Department, before issuing a permit, to adopt measures when feasible to mitigate potential adverse effects of the licensed activity and properties listed or eligible for listing in the National Register of Historic Places. The Act's requirements are to be implemented in cooperation with the California State Office of Historic Preservation and upon notice to, and when appropriate, in consultation with the Advisory Council on Historic Preservation.

(c) The Endangered Species Act. 16 U.S.C. section 1531 et seq.) section 7 of the Act and implementing regulations (50 CFR Part 402) require the USEPA Regional Administrator and the Department to ensure, in consultation with the Secretary of the Interior or Commerce, that any action authorized by USEPA or the Department is not likely to jeopardize the continued existence of any endangered or threatened species or adversely affect its critical habitat.

(d) The Coastal Zone Management Act. (16 U.S.C. section 1451 et seq.) section 307(c) of the Act and implementing regulations (15 CFR Part 930) prohibit USEPA and the Department from issuing a permit for an activity affecting land or water use in the coastal zone until the applicant certifies that the proposed activity complies with the California State Coastal Zone Management Program, and the California Coastal Commission concurs with the certification (or the U.S. Secretary of Commerce overrides the Commission's nonconcurrence).

(e) The Fish and Wildlife Coordination Act. 16 U.S.C. section 661 et seq. requires that the USEPA Regional Administrator and the Department, before issuing a permit proposing or authorizing the impoundment (with certain exemptions), diversion, or other control or modification of any body of water, consult with the State Department of Fish and Game exercising jurisdiction over wildlife resources to conserve those resources.

(f) Executive orders. [Reserved]

NOTE: Authority cited: Sections 208, 25150 and 25159, Health and Safety Code. Reference: Sections 25159 and 25159.5, Health and Safety Code; 40 CFR Section 270.3.

HISTORY

1. New section filed 5-24-91; operative 7-1-91 (Register 91, No. 22).

§66270.4. Effect of a Permit.

(a) The Department's issuance of a permit does not prevent the Department from adopting or amending regulations which impose additional or more stringent requirements than those in existence at the time a permit is issued and does not prevent the enforcement of these requirements against the owner or operator of a permitted facility. As part of any formal rulemaking, the Department shall specify the manner in which a proposed regulatory change is intended to apply to facilities which have been issued a hazardous waste facility permit.

(b) Notwithstanding subsection (a) above, the owner or operator of a facility which has been issued a hazardous waste facility permit shall comply with conditions of the permit as well as regulations adopted by the Department.

(c) The issuance of a permit does not convey any property rights of any sort, or any exclusive privilege.

(d) The issuance of a permit does not authorize any injury to persons or property or invasion of other private rights, or any infringement of State or local law or regulations.

NOTE: Authority cited: Sections 208, 25150 and 25159, Health and Safety Code. Reference: Sections 25159, 25159.5 and 25202, Health and Safety Code; 40 CFR Section 270.4.

HISTORY

1. New section filed 5-24-91; operative 7-1-91 (Register 91, No. 22).

§66270.5. Noncompliance and Program Reporting by the Department.

The Department shall prepare quarterly and annual reports on facilities and activities regulated under RCRA as detailed below. The Department shall submit any reports required under this section to the USEPA Regional Administrator. For purposes of this section only, permittees shall include interim status facilities, when appropriate.

(a) Quarterly reports. The Department shall submit quarterly narrative reports for major facilities as follows.

(1) Format. The report shall use the following format:

(A) information on noncompliance for each facility;

(B) alphabetize by permittee name. When two or more permittees have the same name, the lowest permit number shall be entered first;

(C) for each entry on the list, include the following information in the following order:

1. name, location, and permit number of the noncomplying permittee;

2. a brief description and date of each instance of noncompliance for that permittee. Instances of noncompliance may include one or more of the kinds set forth in subsection (a)(2) of this section. When a permittee has noncompliance of more than one kind, combine the information into a single entry for each such permittee;

3. the date(s) and a brief description of the action(s) taken by the Department to ensure compliance;

4. status of the instance(s) of noncompliance with the date of the review of the status or the date of resolution;

5. any details which tend to explain or mitigate the instance(s) of noncompliance.

(2) Instances of noncompliance to be reported. Any instances of noncompliance within the following

categories shall be reported in successive reports until the noncompliance is reported as resolved (once noncompliance is reported as resolved it need not appear in subsequent reports):

(A) failure to complete construction elements. When the permittee has failed to complete, by the date specified in the permit, an element of a compliance schedule involving either planning for construction (for example, award of a contract, preliminary plans), or a construction step (for example, begin construction, attain operation level); and the permittee has not returned to compliance by accomplishing the required element of the schedule within 30 days from the date a compliance schedule report is due under the permit;

(B) modifications to schedules of compliance. When a schedule of compliance in the permit has been modified under section 66270.41 or 66270.42 because of the permittee's noncompliance;

(C) failure to complete or provide compliance schedule or monitoring reports. When the permittee has failed to complete or provide a report required in a permit compliance schedule (for example, progress report or notice of noncompliance or compliance) or a monitoring report; and the permittee has not submitted the complete report within 30 days from the date it is due under the permit for compliance schedules, or from the date specified in the permit for monitoring reports;

(D) deficient reports. When the required reports provided by the permittee are so deficient as to cause misunderstanding by the Department and thus impede the review of the status of compliance;

(E) noncompliance with other permit requirements. Noncompliance shall be reported in the following circumstances:

1. whenever the permittee has violated a permit requirement (other than reported under subsection (a)(2)(A) or (B) of this section) and has not returned to compliance within 45 days from the date reporting of noncompliance was due under the permit; or

2. when the Department determines that a pattern of noncompliance exists for a major facility permittee over the most recent four consecutive reporting periods. This pattern includes any violation of the same requirement in two consecutive reporting periods, and any violation of one or more requirements in each of four consecutive reporting periods; or

3. when the Department determines significant permit noncompliance or other significant event has occurred such as a fire or explosion or migration of fluids into a USDW;

4. all other. Statistical information shall be reported quarterly on all other instances of noncompliance by major facilities with permit requirements not otherwise reported under subsection (a) of this section.

(b) Annual reports.

(1) Annual noncompliance report. Statistical reports shall be submitted by the Department on nonmajor RCRA permittees indicating the total number reviewed, the number of noncomplying nonmajor permittees, the number of enforcement actions, and number of permit modifications extending compliance deadlines. The statistical information shall be organized to follow the types of noncompliance listed in subsection (a) of this section.

(2) In addition to the annual noncompliance report, the Department shall prepare a "program report" which contains information (in a manner and form prescribed by the USEPA Regional Administrator) on generators and transporters and the permit status of regulated facilities. The Department shall also include, on a biennial basis, summary information on the quantities and types of hazardous wastes generated, transported, treated, stored and disposed during the preceding odd-numbered year. This summary information shall be reported in a manner and form prescribed by the USEPA Regional Administrator and shall be reported according to USEPA characteristics and lists of hazardous wastes in chapter 11 of this division.

(c) Schedule for all quarterly reports. No later than the last working day of May, August, November, and February, the Department shall submit to the USEPA Regional Administrator information concerning noncompliance with permit requirements by major facilities in the State in accordance with the following schedule.

QUARTERS COVERED BY REPORTS ON NONCOMPLIANCE BY MAJOR DISCHARGERS

[Date for completion of reports]	
January, February, and March	¹ May 31
April, May, and June	¹ August 31
July, August, and September	¹ November 30
October, November, and December	¹ February 28

¹Reports shall be made available to the public for inspection and copying no later than this date.

NOTE: Authority cited: Sections 208, 25150 and 25159, Health and Safety Code. Reference: Sections 25159 and 25159.5, Health and Safety Code; 40 CFR Section 270.5.

HISTORY

1. New section filed 5-24-91; operative 7-1-91 (Register 91, No. 22).